GAZETTE EXTRAORDINARY

Published by Authority

Vol. IV Trivandrum, Monday, 9th February 1953 / 27th Makaram 1128 No. 6

THE REPORT OF THE SELECT COMMITTEE ON THE TRAVANCORE-COCHIN NURSES AND MIDWIVES BILL

To

The Speaker,
Legislative Assembly.

Sir,

We, the undersigned members of the Select Committee appointed to consider and report on the Travancore-Cochin Nurses and Midwives Bill, have considered the Bill clause by clause and beg to submit this our

REPORT

I. The Bill was published in the Gazette Extraordinary dated the 27th October 1952.

II. We are of opinion that the Bill may be adopted subject to the following amendments:—

1. In sub clause (1) of clause 1, for the figures '1952' substitute the figures '1953'.

2. In clause 2—

(i) For sub-clause (c) substitute the following sub-clause:—

"(c) "Medical Council" means the Council of Modern Medicine established under the Travancore-Cochin Medical Practitioners Act 1953".

(ii) omit sub-clause (e);

(iii) in sub-clause (h), omit 'or deemed to be registered' and substitute 'Modern Medicine' for 'Allopathic System of Medicine', also substitute '1953' for '1952'.

3. For sub-clause (2) of clause 3, substitute the following sub-clause:—

"(2) The Council shall consist of the following thirteen members, namely:—

(a) the Surgeon General, the Director of Public Health, the Superintendent of the Chief Teaching Hospital, Trivandrum, and the Superintendent, Women and Children's Hospital, Trivandrum to be *ex-officio* members;

(b) one member elected by the Medical Council from among themselves;

(c) two registered nurses nominated by the Government one of whom shall be the Superintendent of a nursing school and the other the Matron-Superintendent of a major hospital;

(d) four members elected by the registered nurses from among the nurses registered in Part A of the register of nurses;

(e) two members elected by the registered midwives from among the midwives registered in Part A of the register of midwives."

We are of the opinion that a Council with 17 members is unwieldy and that the number may be reduced to 13. We are also of the opinion that since practitioners in modern medicine are well represented in the Council, there is no need for nomination by Government of registered practitioners. Further, no representation need be given to the Corporation of Trivandrum and the Municipal Councils in the State. The nurses and midwives to be elected should be from among those registered in Part A of the register of nurses and midwives. We have accordingly recast sub-clause (2).

4. In clause 4,—

(i) for 'clauses (c), (e), (f), (g) and (h)' in both places where they occur, substitute 'clauses (b), (d), and (e)';

(ii) for 'registered practitioner, registered nurse, registered midwife or member' in both places where they occur, substitute 'member, registered nurse or registered midwife'.

5. In clause 5, for 'all appointments thereto shall be by nominations made by the Government', substitute 'all the members other than the *ex-officio* members shall be nominated by the Government'.

6. In clause 6,—

(i) for sub-clause (d) substitute the following sub-clause:—

"(d) if he has been dismissed from service under any Government";

(ii) in sub-clause (f), substitute '1953' for '1952'.

7. For sub-clause (1) of clause 7, substitute the following sub-clause:—

"(i) Save as otherwise provided in this Act, the term of office of the members other than the *ex-officio* members shall—

(a) in the case of the first Council, be for a period of two years commencing from the date on which the first meeting of such Council is held; and

(b) in the case of any Council other than the first Council, be for a period of five years from the date on which the first meeting of such Council is held."

In the case of the first Council all the members other than the *ex-officio* members will be nominated by the Government. We are of the opinion that the term of the nominated members should not be more than two years and that within this period steps should be commenced and completed to constitute the next Council. We have recast sub-clause (1) of clause 7 to give effect to the above.

8. Renumber clause 9 as clause 8, and in the proviso to the clause as so renumbered for 'during the period of such vacancy' substitute 'notwithstanding such vacancy'.

9. Renumber clause 8 as clause 9 and in the clause as so renumbered—

(i) in sub-clause (3), between 'office' and 'on', insert 'on resignation or';

(ii) after sub-clause (4) insert the following sub-clause, and renumber sub-clause (5) as sub-clause (6) namely:—

"(5) When the office of the president is vacant or the president is incapacitated and there is either a vacancy of the vice-president or the vice-president is incapacitated, the Registrar shall after giving notice of not less than seven clear days to the members of the Council, convene a meeting for

> the election of a president if there is a vacancy in that office, and until a new president or vice-president is elected and assumes office, or either the president or the vice-president recovers from his incapacity, as the case may be, the Surgeon General shall, notwithstanding anything contained in this Act, be *ex-officio* president of the Council."

It is necessary to make provision for a president when the office of both the president and the vice-president is vacant or when the president and the vice-president are incapacitated. In such a contingency the Surgeon General will be the president until a new president or vice-president is elected or the president or vice-president recovers from his incapacity.

10. In clause 10, for 'All appointments' substitute 'All elections, nominations and appointments'.

11. In clause 11, for sub-clauses (e) and (f), substitute the following sub-clause :—

> "(e) in the case of a member elected by the Medical Council, if he ceases to be a member of that Council."

The member to be elected by the Medical Council is from among themselves. So if such member ceases to be a member of the Medical Council he should vacate office as member of the Nurses' Council. Clause (e) is recast accordingly. The omission of clause (f) is consequent on the omission of clauses (g) and (h) of sub-clause (2) of clause 3.

12. In clause 12, for 'notice' in both places where it occurs, substitute 'notice in writing'.

13. (i) Renumber sub-clause 13 as sub-clause (1) of that clause and in that clause as so renumbered, for 'vitiate' substitute 'invalidate'.

(ii) After sub-clause (1) insert the following as sub-clause (2):—

"2. No act done by the Council shall be deemed to be invalid on the ground merely of the existence of any vacancy in, or defect in the constitution of the Council".

14. In clause 15,—

(a) in sub-clause (4), for 'seven members' substitute 'five members' and for 'a quorum is not present" substitute 'there is no quorum';

(b) In sub-clause (5), for 'equality or votes', substitute 'equality of votes'.

Since the number of members of the Council is reduced to thirteen, the quorum for a meeting is also reduced to five.

15. In clause 16, for 'to be prescribed by rules', substitute 'be prescribed by rules'.

16. In clause 17,—

(i) in sub-clause (i)—

(a) for the first sentence, substitute the following:—
"The Government shall, after consulting the Council, appoint a Registrar who shall be the Secretary to the Council";

(b) for the third sentence substitute the following:—
"The Government may grant him leave and may appoint a person to act in his place";

(ii) for sub-clause (2) substitute the following sub-clause:—
"(2) Subject to such rules as may be prescribed, the Council shall have power to punish the Registrar. Any order of the Council punishing the Registrar shall not take effect without the previous approval of the Government.";

(iii) in sub-clause (3), the second proviso shall be omitted;

(iv) in sub-clause (4)—

(a) for the words 'All questions of pay' substitute 'The method of recruitment and the conditions of service such as pay,';

(b) the words 'of similar class' shall be added at the end.

We are of the opinion that for administrative convenience the power to appoint a Registrar should be vested with the Government. We are also of the opinion that the power of the Council to punish the Registrar should be subject to the rules to be framed by the Government. We have accordingly amended sub-clauses (1) and (2). In regard to officers and servants of the Council we are of the opinion that the method of recruitment and the conditions of service should be governed by the rules which are applicable to Government servants of similar class. We have accordingly amended sub-clauses (3) and (4).

17. In sub-clause (3) of clause 18, for the words 'shall have died', substitute the words 'are dead'.

18. In sub-clause (2) of clause 19, omit the word 'convenient'.

19. In clause 20—

(i) in clause (ii) of sub-clause (1) for the words 'preceding the date on which he makes the application for being registered as a nurse or midwife under this Act' substitute the words and figures 'preceding the first day of April 1953.'

(ii) in sub-clause (2) add the words 'or the Tahsildar of the taluk at the end.

20. In clause 22, for the words 'in India'; substitute the words 'in any other State in India'.

21. In clause 23, omit sub-clause (3).

Under sub-clause (1) of this clause, the Council has power, after making due enquiries and after giving an opportunity to the person affected of being heard, to refuse to register or to order the removal of the name of any person. But sub-clause (3) confers on the Council power to direct the entry or re-entry of the name of the person against whom an order has been passed under sub-clause (1). We are of the opinion that such a power shoutd not be vested in the Council, especially since the person aggrieved has the right to appeal to the Government under clause 24. We have accordingly deleted sub-clause (3).

22. In clause 27,—

(i) after 'midwives' insert 'or by the order of the Council withdrawing recognition from any such institution';

(ii) for 'date of such refusal' substitute 'date of service of notice of such refusal or of the order of withdrawal'; and

(iii) for 'order of such refusal' substitute 'such refusal or order of such withdrawal'.

This clause provides that a person aggrieved by the refusal to recognise an institution may appeal within three months from the date of such refusal. We are of the opinion that the period of three months should be reckoned from the date of service of the notice of refusal. We are also of the opinion that a person aggrieved by an order of the Council withdrawing recognition of an institution should likewise be given a right of appeal. We have accordingly amended clause 27.

23. In clause 29,—

(i) in sub-clause (1) omit the words 'and shall give like notice in the month of January every year of his intention to continue to practice';

(ii) in sub-clause (2), omit 'or continuance'.

24. In sub-clause (1) of clause 30, omit the words 'or is undergoing training in an institution recognised by the Council', and also omit the proviso.

25. In clause 31, for 'one hundred rupees' substitute 'two hundred and fifty rupees'.

The offence sought to be penalised by this clause is in our opinion a heinous offence. We have therefore raised the maximum penalty to two hundred and fifty rupees.

26. In clause 32, in the first proviso—

(i) after the word 'may' insert the words 'from time to time'

(ii) add the words 'for a specified period' at the end

27. In clause 34, for 'internal manipulations, manual or instrumental', substitute 'instrumental or intra-uterine manipulations'.

We are of the opinion that manual manipulations in so far as they do not pertain to the uterus should be allowed. We have therefore prohibited only instrumental or intra-uterine manipulations.

28. In sub-clause (2) of clause 35,—

(i) In clause (c) for the figure '9', substitute the figure '8';

(ii) omit clause (f) and renumber subsequent clauses.

The amendments are consequential.

29. After clause 39, insert the following clause and renumber clause 40 as clause 41, namely:—

Nurses and Midwives registered under Act XVIII of 1121 entitled to be registered under this Act.

"40. All nurses and midwives to whom certificates of registration have been issued under the Travancore Nurses, Midwives and Dhais Act, 1121 (XVIII of 1121) shall be entitled to be registered under this Act without any application being made in that behalf and without payment of any fee, and the Registrar shall, as soon as may be after the commencement of this Act, register the names of such nurses and midwives in the appropriate registers."

It is necessary to provide for the entry in the registers of the names of nurses and midwives to whom certificates have been issued under the Travancore Nurses, Midwives and Dhais Act, 1121 which is being repealed, without fresh application or payment of any fee.

1.	V. Madhavan (Chairman).	(Sd.)
2.	Alexander Parambithara	,,
3.	R. Gangadharan	,,
4.	N. S. Pillai	,,
5.	E. P. Varghese	,,
6.	K. Madhavan Unnithan	,,
7.	L. M. Pylee	,,
8.	K. R. Gouri	,, (Subject to dissenting minute)
9.	R. Ponnappa Nadar	,,
10.	Nedumangad R. Kesavan Nair	,, (Subject to the right of moving amendments).

DISSENTING MINUTE.

I am of opinion that under Section 6 sub-section (d) it is to be added after "if he has been dismissed from the service of any Government" "not being for any political activities" because a Government servant can be dismissed from service if he engages in political activities. This disqualification will affect persons enjoying other political views from standing as a member to be elected to the Council.

SECTION 9.

Omit Section 9 sub-section 1 and add "the Council shall elact one of its members as the President".

Because it is more democratic to have elected presidents.

Omit in Section 9 sub section 6

"renomination or" for the above grounds.

In Section 21 omit "a fee of rupees 10 in the cases of nurses and rupees five in the case of midwives" and add "Rupees seven in the case of nurses and rupees three in the case of midwives".

This note is added because it will be a burden to nurses and especially midwives to give such a big amount as registration fees.

K. R. GOURI.

Trivandrum,
7th February 1953.

V. KRISHNAMOORTHI,
Secretary, Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT CENTRAL PRESS, TRIVANDRUM.

THE TRAVANCORE-COCHIN NURSES AND MIDWIVES BILL.

(As revised by the Select Committee)

Preamble. WHEREAS it is expedient to provide for the registration and training of nurses and midwives in the State of Travancore-Cochin:

It is hereby enacted as follows:—

1. *Short title, extent and commencement.* (1) This Act may be called the Travancore-Cochin Nurses and Midwives Act, 1953.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.* In this Act, unless the context otherwise requires,—

(a) "Council" means the Travancore-Cochin Nurses and Midwives Council established under Section 3;

(b) "Institution" means any association which maintains or controls an establishment for training nurses or midwives or both and which is recognised by the Council;

(c) "Medical Council" means the Council of Modern Medicine, established under the Travancore-Cochin Medical Practitioners Act, 1953.

(d) "Nurse" includes a male nurse;

(e) "President" means the president of the Council;

(f) "Register" means a register of nurses or midwives maintained under this Act; and "registered" means registered under this Act;

(g) "Registered practitioner" means a practitioner who is registered in the register of practitioners for modern medicine maintained under the Travancore-Cochin Medical Practitioners Act, 1953;

(h) "Registrar" means the Registrar appointed under Section 17;

(i) "Regulations" means regulations made by the Council under this Act;

(j) "Rules" means rules made by the Government under this Act.

3. *Establishment, incorporation and constitution of the Council.* (1) The Government shall, by notification in the Gazette, establish a Council to be called the Travancore-Cochin

Nurses and Midwives Council for the purpose of carrying out the provisions of this Act. Such Council shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.

(2) The Council shall consist of the following thirteen members, namely:—

(a) the Surgeon General, the Director of Public Health, the Superintendent of the Chief Teaching Hospital, Trivandrum, and the Superintendent, Women and Children's Hospital, Trivandrum to be *ex-officio* members;

(b) one member elected by the Medical Council from among themselves;

(c) two registered nurses nominated by the Government one of whom shall be the Superintendent of a nursing school and the other the Matron-superintendent of a major hospital;

(d) four members elected by the registered nurses from among the nurses registered in Part A of the register of nurses;

(e) two members elected by the registered midwives from among the midwives registered in Part A of the register of midwives.

4. *Nomination of members in default of election.* If any of the members mentioned in clauses (b), (d) and (e) of sub-section (2) of Section 3 is not elected, the Government may, as the case may be, nominate such member; registered nurse or registered midwife as they may deem fit and the member, registered nurse or registered midwife so nominated shall be deemed to have been duly elected under clauses (b), (d) and (e) of sub-section (2) of Section 3.

5. *Nomination of members to the first Council.* Notwithstanding anything contained in Sections 3 and 4, in the case of the first Council established under this Act, all the members other than the *ex-officio* members shall be nominated by the Government.

6. *Disqualifications for membership.* A person shall be disqualified for being elected or nominated as, and for being, a member of the Council —

(a) if he has not attained the age of majority;

(b) if he is an undischarged insolvent;

(c) if he is of unsound mind and stands so declared by a competent court, a deaf-mute or a leper;

(d) if he has been dismissed from service under any Government;

(e) if he has been convicted by a Criminal Court in India of any offence and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years or such less period as the Government may allow in any particular case has elapsed since his release;

(f) if his name has been removed from the registers maintained under this Act or the Travancore-Cochin Medical Practitioners Act, 1953, and has not been reinstated.

7. *Term of office of members.* (1) Save as otherwise provided in this Act, the term of office of the members other than the *ex-officio* members shall—

(a) in the case of the first Council, be for a period of two years commencing from the date on which the first meeting of such Council is held; and

(b) in the case of any Council other than the first Council, be for a period of five years from the date on which the first meeting of such Council is held.

(2) An outgoing member shall continue in office until the election or nomination, as the case may be, of his successor.

(3) An outgoing member shall be eligible for re-election or re-nomination.

8. *Vacancies.* If a vacancy occurs in the office of a member of the Council through death, resignation, removal or disability of such member or otherwise previous to the expiry of the term of his office, the vacancy shall be filled in the manner prescribed by rules. Any person elected or nominated to fill the vacancy shall, notwithstanding anything contained in Section 7, hold office only so long as the member in whose place he is elected or nominated would have held office if the vacancy had not occurred:

Provided that it shall be lawful for the Council to exercise its powers under this Act, notwithstanding such vacancy.

9. *President and Vice-president.* (1) The Government shall nominate one of the members of the Council to be its President.

(2) The Council shall elect one of its members other than the President to be its Vice-president.

(3) The President or the Vice-president shall be deemed to have vacated his office on resignation or on the expiry of his term of office as a member or on his otherwise ceasing to be a member.

(4) When the office of the President is vacant, the Vice-president shall exercise the functions of the President until a new President assumes office.

(5) When the office of the President is vacant or the President is incapacitated and there is either a vacancy of the

Vice-president or the Vice-president is incapacitated, the Registrar shall after giving notice of not less than seven clear days to the members of the Council, convene a meeting for the election of a President if there is a vacancy in that office, and until a new President or Vice-president is elected and assumes office, or either the President or the Vice-president recovers from his incapacity, as the case may be, the Surgeon General shall; notwithstanding anything contained in this Act, be *ex-officio* President of the Council.

(6) An outgoing President or Vice-president shall be eligible for re-nomination or re-election.

Explanation. A new President or Vice-president shall be deemed to have assumed office on his being nominated or declared elected as such.

10. *Appointments to be notified in the Gazette.* All elections nominations and appointments of the President, Vice-president, members of the Council and the Registrar shall be notified in the Gazette.

11. *Cessation of membership.* A member of the Council other than an *ex-officio* member shall be deemed to have vacated his seat —

(*a*) on the expiry of the term of office;

(*b*) on resignation;

(*c*) on absence, without excuse sufficient in the opinion of the Council, from three consecutive meetings of the Council;

(*d*) on becoming subject to any of the disqualifications mentioned in Section 6;

(*e*) in the case of a member elected by the Medical Council, if he ceases to be a member of that Council.

12. *Resignation of membership.* Any member other than an *ex-officio* member or the Vice-president may at any time resign his office by giving notice in writing to the President; the President may resign his office by giving notice in writing to the Council. Such resignation shall take effect in the case of a member or Vice-president from the date on which it is received by the President, and in the case of the President, from the date on which it is placed before the Council.

13. *Validity of proceedings.* (1) No disqualification of or defect in the election or nomination of any person acting as a member of the Council or as President or Vice-president or presiding member of a meeting shall be deemed to invalidate any act or proceeding of the Council in which such person has taken part.

(2) No act done by the Council shall be deemed to be invalid on the ground merely of the existence of any vacancy in or defect in the constitution of the Council.

14. *Meetings of the Council.* The Council shall meet at such time and place and every meeting of the Council shall be summoned by such person and in such manner as may be prescribed by regulations:

Provided that until such regulations are made, it shall be lawful for the President to summon a meeting of the Council at such time and place as he may deem expedient by letter addressed to each member.

15. *Presidency at meetings of Council and procedure thereat.* (1) Every meeting of the Council shall be presided over by the President; in his absence by the Vice-president; and in the absence of both the President and the Vice-president by a member chosen by the members present at the meeting to preside for the occasion.

(2) The President shall preserve order and shall decide all points of order at or in connection with meetings. There shall be no discussion on any point of order and the decision of the President on any point of order shall be final.

(3) The Vice-president or member presiding for the occasion shall, for that meeting and during the period he presides over it, have all the powers of the President.

(4) All questions at a meeting of the Council shall be decided by the votes of the majority of the members present and voting at the meeting. Five members shall form a quorum. If within half an hour from the time appointed for the meeting there is no quorum, the meeting shall stand adjourned to the same day in the following week at the same time and place and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall form a quorum.

(5) At every meeting of the Council, the President shall, in addition to his vote as a member of the Council, have a second or casting vote in case of equality of votes.

16. *Payment of fees and allowances.* There shall be paid to the President, Vice-president and the other members of the Council such fees and allowances for attendance in connection with the meetings of the Council or of any Committee thereof and such travelling allowances as shall from time to time be prescribed by rules.

17. *Registrar.* (1) The Government shall, after consulting the Council, appoint a Registrar who shall be the Secretary to the Council. The Registrar shall receive such salary and allowances as may be prescribed by rules. The Government may grant him leave and may appoint a person to act in his place.

(2) Subject to such rules as may be prescribed, the Council shall have power to punish the Registrar. Any order of the Council punishing the Registrar shall not take effect without the previous approval of the Government.

(3) The Council may appoint or employ such other officers and servants as it may deem necessary for the purposes of this Act:

Provided that the number and designations of such officers and servants and their salaries and allowances shall be subject to the previous approval of the Government.

(4) The method of recruitment and conditions of service such as pay, allowances, promotions, leave, pension, gratuity and provident fund relating to the officers and servants appointed or employed under sub-section (3) shall be governed by the rules applicable to officers and servants of the Government of similar class.

(5) All officers and servants appointed or employed under sub-section (3) shall be under the direct control and supervision of the Registrar. The powers of the Registrar to punish, dismiss, discharge and remove any such officer or servant shall be regulated by such rules as may be made by the Government in that behalf.

(6) All officers and servants appointed or employed under sub-sections (1) and (3) shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

18. *Duties of Registrar.* (1) Subject to the provisions of this Act and subject to any general or special order of the Council, it shall be the duty of the Registrar to keep the registers.

(2) There shall be separate registers for nurses and midwives. The registers shall be in such form and shall contain such particulars as may be prescribed by rules. Each register shall be divided into two parts A and B. Part A containing the names of those nurses or midwives who are eligible for registration under clause (i) of sub-section (1) of Section 20 and Part B containing the names of those nurses or midwives who are eligible for registration under clause (ii) of sub-section (1) of Section 20.

(3) The Registrar shall keep the registers correct in accordance with the provisions of this Act and the rules and regulations made thereunder and shall remove from the registers the names of those registered nurses and midwives who are dead or whose names are directed to be removed from the registers under Section 23.

(4) The registers shall be deemed to be public documents under Section 74 of the Indian Evidence Act.

19. *Default of Council.* (1) If at any time it shall appear to the Government that the Council has failed to exercise or

has exceeded or abused any of the powers conferred on it by or under this Act, or has failed to perform any of the duties imposed upon it by or under this Act, the Government may, if they consider such failure, excess or abuse to be of a serious character, notify the particulars thereof to the Council, and if the Council fails to remedy such default, excess or abuse within such time as the Government may fix in this behalf, the Government may dissolve the Council and cause all or any of the powers and duties of the Council to be exercised and performed by such person and for such period as they may think fit and thereupon the funds and property of the Council shall vest in the Government for the purpose of this Act until a new Council shall have been constituted under Section 3.

(2) When the Government have dissolved the Council under sub-section (1), it shall take steps as soon as may be to constitute a new Council under Section 3, and thereupon the property and funds referred to in sub-section (1) shall vest in the Council so constituted.

REGISTRATION.

20. *Eligibility for registration.* (1) Subject to the provisions of sub-sections (2) and (3)—

(i) every person who has undergone such course of training and passed such examination as may be prescribed by rules for the purpose of conferring a right of registration as a nurse or midwife under this Act; and

(ii) every person who within the period of one year or such other longer period as may be fixed by the Government from the date on which this Act comes into force proves that he has been in regular practice as a nurse or midwife for a period of not less than three years preceding the first day of April 1953,

shall be eligible for registration under this Act:

Provided that no nurse or midwife shall be registered under clause (ii) after the expiration of one year or such other longer period as may be fixed by the Government from the date on which this Act comes into force.

(2) Applicants for registration under clause (ii) of sub-section (1) shall produce a certificate in the form prescribed by rules. The certificate shall be from a registered practitioner or the Tahsildar of the taluk.

(3) No person shall be eligible for registration under sub-section (1) if he is subject to any of the disqualifications mentioned in clauses (a) to (e) of Section 6.

21. *Application for registration.* (1) An application for registration under Section 20 shall be in the prescribed form and shall be accompanied by a fee of rupees ten in the case of nurses and rupees five in the case of midwives.

(2) All applications under sub-section (1) shall be sent direct to the Registrar who shall place them before the Council for its decision.

(3) If the Council directs the registration of the applicant, the Registrar shall enter the name of the applicant in the appropriate register and issue to him a certificate in such form and containing such particulars as may be prescribed by rules.

22. *Admission to register of persons registered in any State in India.* Subject to such conditions and on payment of such fees as may be prescribed by rules, any person who proves to the satisfaction of the Council that he has been registered as a nurse or midwife in any other State in India may be registered as a nurse or midwife under this Act.

23. *Refusal of registration and removal and re-entry.* (1) Subject to such conditions as may be prescribed by rules, the Council may, after giving an opportunity to the person concerned to appear and to be heard, and after holding an inquiry in the manner prescribed by rules refuse to enter in the register the name of any person or may order the removal of the name of any person from the register.

(2) The order passed under sub-section (1) shall be in writing and shall be served on the person concerned in the manner prescribed by rules.

24. *Appeal from order under Section 23.* Any person aggrieved by an order of the Council made under Section 23 may, within three months from the date on which notice of such order is served on him, appeal to the Government against such order in such manner and subject to such conditions and on payment of such fee as may be prescribed by rules and the decision of the Government on such appeal shall be final.

25. *Annual list of nurses and midwives.* (1) The Registrar shall in every year on or before the date to be fixed by the Council cause to be published in the Gazette a full or supplementary list of the names of all nurses and midwives registered under this Act.

(2) The Registrar shall from time to time cause to be published in the Gazette the names of such nurses and midwives which have been duly removed under any of the provisions of this Act.

(3) In any proceeding it shall be presumed that every person whose name is entered in the list published under sub-section (1) is a registered nurse or registered midwife and that any person whose name is not so entered is not a registered nurse or registered midwife, as the case may be;

Provided that in the case of a person whose name has been entered in the register after the publication of the list, a certified copy signed by the Registrar of the entry of the name of such person in the register shall be evidence that such person is registered under this Act. Such certificate shall be issued free of charge.

26. *Institutions for training nurses and midwives.* (1) The institutions which are approved and recognised by the Council after inspection by its representative shall be competent to train nurses and midwives and to send them for examination for the qualifying certificates recognised by the Council.

(2) The Council may withdraw recognition from any such institution after its inspection by a representative of the Council. The order of such withdrawal shall be in writing and shall be served in the manner prescribed by rules.

27. *Appeal against refusal to recognise institutions under Section 26.* Any person aggrieved by the refusal of the Council to approve and recognise any institution as competent to train nurses and midwives or by the order of the Council withdrawing recognition from any such institution may appeal within three months from the date of service of notice of such refusal or of the order of withdrawal to the Government against such refusal or order of such withdrawal in such manner and subject to such conditions, and on payment of such fee as may be prescribed by rules, and the decision of the Government on such appeal shall be final.

28. *Supervising authority.* (1) The Government may, by notification in the Gazette, appoint for such area as may be notified a local supervising authority consisting of such members as may be specified in such notification to exercise general supervision over nurses and midwives within such area and to exercise and perform such other powers and duties as may be prescribed by rules.

(2) The Government may, subject to such conditions and restrictions as may be prescribed by rules, appoint a chief supervising authority to exercise control over local supervising authorities.

29. *Notice of commencement and continuance of practice.* (1) Every person registered under this Act as a nurse or midwife shall give previous notice to the local supervising authority of his intention to commence practice in any local area.

(2) Every such nurse or midwife shall give notice of any change of address to the local supervising authority to whom he has notified commencement of practice under sub-section (1) and also to the Registrar.

30. *Disability of unregistered persons.* (1) No dispensary, hospital, infirmary, lying-in-hospital, sanatorium, surgery, nursing home or other similar institution shall employ any person as a nurse or midwife unless such person is a nurse or midwife registered under this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may entend to fifty rupees.

(3) Whoever after having been convicted under sub-section (2) continues to contravene the provisions of sub-section (1) shall on conviction be punished for each day after the previous date of conviction during which he continues so to contravene with fine which may extend to five rupees.

31. *Penalty for dishonest use of certificates.* Any person who—

(a) dishonestly makes use of any certificate of registration issued under this Act to him or to any other person;

(b) procures or attempts to procure registration under this Act by making or producing or causing to be made or produced any false or fraudulent declaration, certificate or representation, whether in writing or otherwise; or

(c) wilfully makes or causes to be made any false representation in any matter relating to the register of certificates issued under this Act;

shall be punishable with fine which may extend to two hundred and fifty rupees.

32. *Nurses or midwives not registered under this Act not to practise.* (1) No person other than a nurse or midwife registered under this Act shall practise or hold himself out either directly or by implication as a practising nurse or midwife:

Provided that the Government may, from time to time by notification in the Gazette direct that this section shall not apply to any person or class of persons or in any specified area for a specified period:

Provided further that this section shall not apply to a person eligible for registration under this Act who after having filed the application for registration under this Act is awaiting the decision of the Council or of the Government in case of appeal.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to fifty rupees.

33. *Penalty for unlawful assumption of title of registered nurse or midwife.* Any person who not being a registered nurse or midwife takes or uses the name or title of a registered nurse or midwife or uses any name, title, description,

prescribed uniform, badge, object or sign board, with the intention that it may be believed or with the knowledge that it is likely to be believed that such person is a registered nurse or midwife shall be punishable with fine which may extend to fifty rupees.

34. *Penalty for instrumental manipulations by nurse or midwife.* Any nurse or midwife who resorts to instrumental or intra-uterine manipulations to effect delivery, shall be punishable with imprisonment which may extend to three months or with fine which may extend to one hundred rupees or with both.

35. *Power of Government to make rules.* (1) The Government may, after previous publication, make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules,—

(a) with reference to all matters expressly required or allowed by this Act to be prescribed;

(b) with reference to all matters relating to the elections of Vice-President and members of the Council including election petitions and deposits to be made by candidates standing for election as members and the conditions under which such deposits may be forfeited:

Provided that the deposit required shall not exceed fifty rupees;

(c) as to the manner in which vacancies shall be filled under Section 8;

(d) as to the fees and other allowances payable to the President, Vice President and the other members of the Council under Section 16;

(e) as to the salary and allowances payable to the Registrar under Section 17;

(f) as to the powers of the Registrar to punish the officers and servants appointed or employed under Section 17;

(g) as to the form of the registers and the particulars to be entered therein under Section 18;

(h) as to the course of training and examinations entitling a person to registration and the form of certificate from registered practitioners under Section 20;

(i) as to the form of application for registration and the form of certificate of registration and the particulars which they shall contain;

(j) as to the conditions subject to which and the fee payable for admission to register of nurses and midwives registered in India or in any State in India;

(*k*) as to the causes for which, the conditions under which and the manner in which the names of nurses and midwives may be removed or re-entered in the register under Section 23 and the manner in which the order of removal or refusal shall be served on any such person;

(*l*) as to the fee payable in respect of an appeal under Section 24 or Section 27 and the manner in which and the conditions subject to which such appeals shall be preferred;

(*m*) as to the manner in which an order of withdrawal of recognition of an institution shall be served under Section 26;

(*n*) as to the application of the fees and other amounts received under this Act;

(*o*) as to the powers to be exercised and the duties to be performed by a local supervising authority and as to the conditions and restrictions subject to which the chief supervising authority may exercise control over a local supervising authority;

(*p*) as to the furtherance of any of the objects of the Council.

(3) All rules made under this section shall be published in the Gazette.

36. *Power of Council to make regulations.* (1) The Council may, with the previous sanction of the Government, make regulations not inconsistent with this Act or the rules made thereunder for all or any of the following matters, namely:—

(*a*) the time and place at which the Council shall hold its meetings and the manner in which and the person by whom such meetings shall be summoned;

(*b*) the conduct of any examinations which may be prescribed by rules as a condition of admission to the register and any matters ancillary to or connected with such examinations including the course of training which the candidates appearing for the examinations shall undergo;

(*c*) the approval of any institution for the purpose of such training and the granting of diplomas to candidates passing the examinations;

(*d*) all other matters which may be necessary for the purposes of carrying out the objects of this Act.

(2) All regulations made under this section and duly confirmed by the Government shall be published in the Gazette.

(3) The Government may by notification in the Gazette cancel any such regulations.

37. *Prosecution.* Whenever the Council is of the opinion that the prosecution of any person for the contravention of any of the provisions of this Act is necessary, the Council

may by resolution recommend to the Government the institution of such prosecution and the Government may thereupon authorise in writing any officer to initiate such prosecution.

38. *Jurisdiction of Magistrates.* (1) No Court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

(2) No Court shall take cognisance of any offence under this Act except on a complaint in writing of an officer authorised by the Government in this behalf.

39. *Jurisdiction of Civil Courts barred.* No act done in the exercise of any power conferred by or under this Act on the Government, the Council, or the Registrar shall be questioned in any Civil Court.

40. *Nurses and Midwives registered under Act XVIII of 1121 entitled to be registered under this Act.* All nurses and midwives to whom certificates of registration have been issued under the Travancore Nurses, Midwives and Dhais Act, 1121 (XVIII of 1121) shall be entitled to be registered under this Act without any application being made in that behalf and without payment of any fee, and the Registrar shall, as soon as may be after the commencement of this Act, register the names of such nurses and midwives in the appropriate registers.

41. *Repeal.* The Travancore Nurses, Midwives and Dhais Act, 1121 (XVIII of 1121) is hereby repealed.

V. Krishnamoorthi,
Secretary, Legislative Assembly.